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Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: D.T.E. 04-116- Investigation by the Department of Telecommunications and Energy On Its Own Motion Regarding the Service Quality Guidelines Established in Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84 (2001)

Dear Secretary Cottrell:

New England Gas Company ("New England Gas" or the "Company") is pleased to submit brief reply comments addressing the initial comments filed on March 1, 2005 in the above-referenced proceeding. In addition to comments filed by the Company on that date, the majority of the remaining Massachusetts electric and gas companies¹, filed comments. In addition, comments were filed by the Office of the Attorney General (the "Attorney General"), Associated Industries of Massachusetts ("AIM"), Constellation New Energy ("Constellation"), the International Brotherhood of Electrical Workers, Local 103 ("IBEW") and the Utility Workers Union of America, including Locals 273, 369 and 654 (the "UWUA"). The Company's reply comments focus only on those recommendations that, if accepted by the Department of Telecommunications and Energy (the "Department"), would significantly alter the scope of the Department's current service quality ("SQ") guidelines (the "Guidelines"), approved in Service Quality, D.T.E. 99-84 (June 2001).

¹ In addition to New England Gas, the following electric and gas companies filed initial comments in this proceeding: (1) Bay State Gas Company ("Bay State"); (2) The Berkshire Gas Company ("Berkshire"), (3) Boston Gas Company, Colonial Gas Company and Essex Gas Company, each d/b/a KeySpan Energy Delivery New England ("KeySpan"); (4) Fitchburg Gas & Electric Company ("Fitchburg"); (5) Massachusetts Electric Company and Nantucket Electric Company ("National Grid"); (6) Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, d/b/a NSTAR Electric and NSTAR Gas (collectively, "NSTAR"); and (7) Western Massachusetts Electric Company ("WMECo").

- **Offsets**

The majority of commenters recommended few, if any, changes in the Department's SQ Guidelines addressing penalty offsets. Only AIM, the AG and the UWUA recommended any significant changes. AIM recommended that the Department limit the availability of offsets to related performance measures and remove their availability for superior performance in responding to odor calls (AIM Comments at 1). The Attorney General recommended that the availability of offsets be limited to exceptional performance compared to a standardized benchmark in a related category (AG Comments at 3). The UWUA recommended that the Department eliminate the availability of offsets altogether, alleging that offsets undermine the purpose of SQ standards by allowing a company to "choose not to address substandard performance in one area because it knows it can easily exceed the benchmark in another area" (UWUA Comments at 6-7).

Contrary to these recommendations, New England Gas and other local distribution companies ("LDCs") provided the Department with compelling justifications in their initial comments for continuing the Department's current policy regarding the availability of offsets, including: (1) the avoidance of the imposition of unwarranted penalties where there is uncertainty whether a company's SQ has degraded; and (2) the role that offsets play in providing companies with an incentive to improve SQ performance (Bay State Comments at 3; Berkshire Comments at 6-7; Fitchburg Comments at 3; KeySpan Comments at 4-7; NSTAR Comments at 6-11; WMECO Comments at 3-4; see also National Grid Comments at 3).

The recommendations of AIM, the AG and the UWUA fail to acknowledge that the Department has recognized that its standard deviation-based deadband calculation may result in some companies being at risk for SQ penalties based on performance that statistically falls outside the deadband, even though there is a possibility that such performance was not actually related to degraded SQ performance. Accordingly, the Department adopted the offset provision as a safeguard, for all categories, against the imposition of inappropriate penalties. D.T.E. 99-84-B at 2, D.T.E. 99-84, at 28. The rationales cited by AIM, the AG and the UWUA for either limiting or eliminating the availability of offsets are either sparse or nonexistent and furthermore ignore the Department's stated rationale for allowing offsets. Therefore, the Department should neither limit nor eliminate the availability of offsets in future SQ Guidelines.

- **Strengthening the "Response to Odor Calls" Benchmark**

The majority of commenters that addressed the Department's question regarding increasing the Response to Odor Call benchmark recommended that the Department retain the existing 95 percent benchmark for this measure (see

Bay State Comments at 5-6; Berkshire Comments at 8-9; Fitchburg Comments at 4-5; KeySpan Comments at 11; NSTAR Comments at 16). Only the AG and the UWUA recommended that the Department increase the benchmark, with only the UWUA recommending a specific figure (i.e., 98 percent) (Attorney General Comments at 3; UWUA Comments at 7).

However, neither the AG nor the UWUA provided support for increasing the benchmark above the current level. Indeed, the AG implicitly acknowledged that the Department should not set benchmarks at levels that are geared toward achieving 100 percent performance (see AG Comments at 3). To the Company's knowledge, there has been no evidence proffered since the 95 percent benchmark was established in 2001 that any gas company is failing to achieve their highest possible level of performance in responding to odor calls. Accordingly, the Department should maintain the existing benchmark for responding to odor calls in future SQ Guidelines.

- **Staffing Level Guidelines**

The majority of the commenters recommended that no changes be made in future SQ Guidelines regarding the reporting of staffing level data (Fitchburg Comments at 6, KeySpan Comments at 14-21; National Grid Comments at 5-7, NSTAR Comments at 19-25, WMECo Comments at 5). Only the AG and the UWUA recommended changes. The Attorney General recommended that: (1) the maintenance of minimum staffing levels should be included as a penalty measure; and (2) the Department should not "negate" the "statutory requirement" to maintain staffing levels at November 1, 1997 levels by factoring in a lapse in time between the enactment of G.L. c. 164, § 1E and the adoption by an LDC of a performance-based rate plan (AG Comments at 4). Similarly, the UWUA recommended that the Department implement and enforce a minimum staffing level benchmark, based on November 1, 1997 levels, and include in such benchmark both union and non-union employees (UWUA Comments at 14-16).

Consistent with the recommendations of a majority of the commenters, the Department should not make any changes in future SQ Guidelines to include the maintenance of minimum staffing levels as a penalty measure. Several commenters correctly noted that a reduction in staffing levels in a given year does not, *per se*, indicate that SQ has degraded (Fitchburg Comments at 6, KeySpan Comments at 19; NSTAR Comments at 23). Therefore, the Department should continue to utilize staffing level data only if there is an independent, quantitative indication that SQ has actually degraded. Neither the AG nor the UWUA provided any rationale to the contrary.

In addition, neither the AG nor the UWUA offered persuasive reasons for requiring companies to maintain their staffing levels at November 1, 1997 levels. Such a requirement negates the dramatic changes the gas and electric industries have implemented since 1997. Over the past seven years, as a result of

unbundling of utility services, asset divestitures, the implementation of technological improvements, the emergence of a competitive market, and mergers and acquisitions, gas and electric companies have faced fundamental changes in the way their businesses are run, and as part of those changes have seen opportunities to provide high service quality while also cutting costs through staff changes, either through attrition or voluntary employee severance plans. The Company's own merger of the Providence Gas Company, Valley Gas, the Fall River Gas Company, and the North Attleboro Gas Company to create the New England Gas Company in 2000 is a perfect example of this phenomenon, and one which allows the Company to best utilize efficiencies relating to the consolidation of the companies. The establishment of a 1997 staffing benchmark would hinder those efficiencies and would not provide the Department with any relevant information regarding the Company's SQ performance in future years.

- **Standardized Benchmarks**

Similar to the majority of commenters, New England Gas continues to support the findings of the report entitled Summary of Findings Related To Service Quality Benchmarking Efforts, Navigant Consulting, Inc. (December 19, 2002) (the "Navigant Report") submitted to the Department on December 19, 2002, which addressed the use of national, regional or statewide benchmarks to measure SQ performance (see Bay State Comments at 8-9; Berkshire Comments at 13; Fitchburg Comments at 8-9; KeySpan Comments at 21-24; National Grid Comments at 7; NSTAR Comments at 26-28; WMECO Comments at 7-8). The Navigant Report concluded that inherent differences among utilities make it virtually impossible to establish standardized performance benchmarks that would have validity in terms measuring the performance of a specific Massachusetts-based utility. With the exception of Response to Odor Calls, which the LDCs currently measure via a standardized 95 percent benchmark, the Department should continue to allow LDCs to measure their SQ performance against their historical performance, rather than a uniform benchmark.


- **Incentives**

New England Gas agrees with the majority of commenters that favored allowing incentives in future SQ Guidelines for companies that realize superior SQ performance (see Fitchburg Comments at 9; KeySpan Comments at 24-25; NSTAR Comments at 28-29; see also Bay State Comments at 9-10; National Grid Comments at 11-12 and WMECO Comments at 8). Incentives provide benefits similar to those provided by offsets, in that incentives both: (1) encourage companies to improve SQ performance from year-to-year; and (2) protect against the imposition of unfair penalties that may be calculated under the Department's current penalty formula, which may produce "Type 1" errors relating to statistical anomalies, rather than actual SQ degradation. Accordingly,

the Department should consider allowing incentives to be available to gas and electric companies in future SQ Guidelines.

Thank you for the opportunity to reply to the initial comments filed on March 1, 2005 in this proceeding. Please contact me or Kevin Penders at the Company if you have any questions regarding the Company's Reply Comments.

Very truly yours,



John K. Habib

cc: Service List, D.T.E 04-116
Caroline Bulger
Kevin Penders
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